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January 13, 2009

Hyla P. Wagner
Senior Commission Counsel
Fair Political Practices Commission
428 J. Street, Suite 600
Sacramento, CA 95814

Dear Ms. Wagner:

Thank you for providing the opportunity to comment on proposed FPPC Regulation 18247.5, which would clarify the statutory definitions of "general purpose" and "primarily formed" committees. The San Francisco Ethics Commission serves as filing officer for campaign reports filed by candidates and committees active in San Francisco. Based on the Commission's experience in this regard, I write to you on behalf of the Commission to express our concerns about the proposed regulation.

In general, we believe that a regulation precisely defining "primarily formed" and "general purpose" committees and delineating the difference between state and local committees will provide much needed guidance and will help committees determine their filing obligations.

We have concerns, however, about the proposed \$50,000 expenditure threshold set forth in proposed Regulation 18247.5(b)(1)(A)(ii). Under the proposal, a committee that makes \$50,000 in contributions or expenditures over three calendar years to support or oppose candidates or measures voted on in state elections or in more than one county, would be deemed a state committee. We are concerned that \$50,000 is too low a threshold and should be abandoned in favor of an across-the-board 50-percent standard. Treating all such committees as state committees would mean that much campaign activity related to local races would go unreported in the critical months before an election.

For example, under the proposal, a committee that spends \$400,000 to support or oppose measures that appear only on the ballot in San Francisco and \$50,000 to support or oppose a measure that appears on the state ballot would be deemed a state committee. As a state committee, the committee would not be required to file pre-election or semi-annual reports at the Ethics Commission – the place where the San Francisco public is accustomed to finding local campaign disclosures. During odd-numbered years, the committee would not be required to file any pre-election reports; thus, no information regarding contributions or expenditures would be readily available

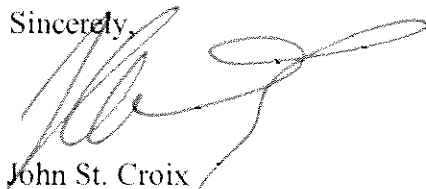
to inform local voters. We recommend that the \$50,000 threshold not be adopted. Instead, we recommend that the Commission define a local committee as any committee that makes contributions or expenditures to support or oppose candidates or measures voted on in only one consolidated city and county that total *50 percent or more* of the contributions and expenditures made by the committee during the past 12 months, regardless of the amount the committee spends.

The Ethics Commission is also concerned that proposed Regulation 18247.5(c) looks back three calendar years in determining the status of a committee. We believe this look-back period is too long. In determining whether it has reached the \$50,000 or 50 percent threshold, a committee would be required to count contributions and expenditures during the current calendar year *and the previous two calendar years*. This would lead to the peculiar result of committees that currently are active exclusively in a single local jurisdiction being treated as state committees. Suppose, for example, a committee makes \$50,000 in expenditures to support or oppose state candidates in year 1. Such a committee would be considered a state committee under the proposed regulation. Suppose that in year 2, the committee spends \$50,000 on San Francisco candidates only; and in year 3 the committee spends another \$50,000 on San Francisco candidates only. Under this hypothetical, the committee remains a state committee during the second and third years, even though its spending in the second and third years relates only to City candidates and its spending over the three years is far less than 50 percent for state candidates. Under the proposed regulation, during all three years, the committee would not be required to file campaign disclosure reports with the Ethics Commission. To ensure that local residents are able to obtain information about committees that are active in San Francisco, we propose that the FPPC shorten the time for calculations to activities in the past 12 months.

In the event that the Commission adopts the \$50,000 threshold or the three-year look-back provision in the final regulation, we ask that it consider requiring state committees that are active locally – those that spend \$50,000 or more in a local jurisdiction or that have local activity of 50 percent or more during any calendar year – to file copies of their state filings with the local jurisdiction.

Thank you for your consideration of our comments.

Sincerely,



John St. Croix
Executive Director